

L. J. CORNELIUS

IBLA 81-537

Decided February 2, 1982

Appeal from a decision of the Nevada State Office, Bureau of Land Management, denying a protest of the designation of inventory unit NV-030-407 as a wilderness study area.

Affirmed.

1. Administrative Procedure: Burden of Proof--Federal Land Policy and Management Act of 1976: Wilderness--Rules of Practice: Appeals: Burden of Proof--Wilderness Act

A decision of the State Director designating an inventory unit as a wilderness study area will not be disturbed on appeal where the appellant fails to meet its burden of pointing out specific errors of law or fact in the decision below. More than mere disagreement with BLM's conclusion is required to reverse its decisions or place a factual matter at issue.

APPEARANCES: L. J. Cornelius, pro se; Dale D. Goble, Esq., for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

L. J. Cornelius appeals from a decision of the Nevada State Office, Bureau of Land Management (BLM), denying his protest of the designation of inventory unit NV-030-407 as a wilderness study area (WSA). This decision, dated March 2, 1981, affirmed the designation of unit NV-030-407 as a WSA, but deleted therefrom some 1,890 acres in the southern portion. BLM's action deleting this acreage came in response to protests, such as appellant's, pointing out the previous uses of the unit for mining and grazing purposes.

The review by BLM of unit NV-030-407 for wilderness characteristics was taken pursuant to section 603(a) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1782 (1976). This section directs the Secretary of the Interior to review those roadless areas of 5,000 acres or more which were identified during the inventory

required by section 201(a) of the Act as having wilderness characteristics. The wilderness characteristics alluded to are set forth in the Wilderness Act of September 3, 1964, 16 U.S.C. § 1131(c) (1976):

A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this chapter an area of undeveloped [sic] Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

Wilderness study area NV-030-407, also known as the Gabbs Valley Range WSA, consists of approximately 75,440 acres in Mineral County, Nevada. 46 FR 17266 (Mar. 18, 1981). Prior to the deletion of 1,890 acres as a result of protests, some 3,790 acres were eliminated during the intensive inventory of this unit. This acreage was found to contain roads, a powerline, and a material site right-of-way. BLM's narrative summary states that the remaining acreage is in a natural state with the imprint of man's work substantially unnoticeable. Its size, shape, vegetation, drainage patterns, and highly branched ridge contribute to what BLM describes as outstanding opportunities for solitude. Opportunities for hiking and horseback riding are similarly described as outstanding.

Appellant's statement of reasons on appeal is highly critical of the wilderness review program, describing it as a "land grab" which will prevent the development of mineral rich land. No specific error, however, either of a factual or legal nature, is demonstrated by appellant's pleading. As this Board held in Sierra Club, 54 IBLA 31, 37 (1981), a decision of the State Director will not be disturbed on appeal where the appellant fails to meet its burden of pointing out specific errors of law or fact in the decision below. More than mere disagreement with BLM's conclusions is required to reverse BLM's decisions or place a factual matter at issue. Richard J. Leumont, 54 IBLA 242, 88 I.D. 490 (1981); Sierra Club, 53 IBLA 159, 164 (1981).

Although we decline to alter BLM's decision in any way, we point out to appellant that the boundaries of a WSA may yet be modified by BLM. During the study phase of the wilderness review program, BLM may adjust WSA boundaries which are found to be inappropriate because of

the imprints of man ("sights and sound") outside a WSA. In addition, boundaries may be modified to reflect considerations based upon the manageability of a unit and the competing land uses and resources therein. Public comment during the study phase is invited and may cause a modification of those boundaries to which appellant objects. See 45 FR 75574, 75575 (Nov. 14, 1980). Appellant's concern that mineral development will be halted by a wilderness designation of the Gabbs Valley Range WSA should be further made known to BLM during the study phase of this WSA.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Nevada State Office is affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Bruce R. Harris
Administrative Judge

